

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

AMERICAN CIVIL LIBERTIES UNION,  
OF MASSACHUSETTS; and  
AMERICAN OVERSIGHT,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT,

Defendant.

Civil Action No. 1:21-cv-10761-AK

**STATUS REPORT REGARDING CELLULAR TELEPHONE**

Defendant hereby reports on the status of certain aspects of this case as ordered by this Court on September 1, 2022 (subject to a partial motion for reconsideration). That order stated, in part:

- a. For the pendency of this litigation and any appeals, Defendant preserve in their present condition all mobile devices, including cellular telephones, within its possession, custody, or control, that were issued at any time by any government agency to Thomas Homan, Matthew Albence, Ronald Vitiello, Thomas Blank, Tracy Short, Jon Feere, and/or Nathalie Asher, without any modification, deletion, or destruction of the data contained therein; and
- b. Defendant continue its efforts, as described in its supplemental affidavits, to access Mr. Feere's mobile device, and shall submit a status report on or before September 19, 2022, provided that Defendant shall not modify, delete, or destroy any data contained on that device.

As regards paragraph (b), Defendant reports that it has contacted Mr. Feere, to seek the passcode to his mobile device. Mr. Feere indicated that he was unsure of the code and was generally unwilling to assist ICE absent concessions from ICE in unrelated litigation with which

Mr. Feere is involved. ICE's technical group ("Headquarters Cyber Section") has possession of the telephone and is using the best technology it has available to force an unlocking of the telephone. As of September 28, 2022, 2,241 attempts to unlock the telephone have been made. Because it is an iPhone, only 1 one passcode can be tried every 15 minutes; since the passcode is six digits, there are one million possible combinations. While the program prioritizes most likely passcode combinations first, it will take 22 years and 6 months to test all possible combinations.

Nothing has been done which would cause a loss of data on this, or any other cellular telephone at issue in this litigation.

Respectfully submitted,

MARY M. MURRANE  
Chief, Civil Division

Dated: October 3, 2022

By: /s/ Thomas E. Kanwit  
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**CERTIFICATE OF SERVICE**

I, Thomas E. Kanwit, Assistant United States Attorney, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: October 3, 2022

By: /s/ Thomas E. Kanwit  
Thomas E. Kanwit  
Assistant United States Attorney